United Nations CMW/C/UGA/CO/1

# International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

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**Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families**

## Concluding observations on the initial report of Uganda*

1. The Committee considered the initial report of Uganda (CMW/C/UGA/1) at its 277th and 278th meetings (see CMW/C/SR.277 and 278), held on 15 and 16 April 2015. At its 289th meeting (see CMW/C/SR.289), held on 23 April 2015, the Committee adopted the following concluding observations.

### A. Introduction

2. The Committee welcomes the submission of the initial report of the State party, which was prepared in response to the list of issues prior to reporting (CMW/C/UGA/QPR/1), and the additional information provided during the dialogue by the high-level delegation, which was headed by Madada Kyebakoze Sulaiman, Minister of State for the Elderly and Disability Affairs and comprised of representatives from the Permanent Mission of the Republic of Uganda to the United Nations Office at Geneva. However, the Committee regrets that the report was only submitted on 31 March 2015, which did not allow sufficient time for translation into the working languages of the Committee, nor for due consideration by the Committee.

3. The Committee appreciates the open and constructive dialogue held with the delegation but notes with regret that the information provided was often general or incomplete, especially with regard to the practical implementation of the Convention in the State party. The Committee also notes with regret that the State party did not ensure wider participation by all relevant ministries and public bodies in the preparation of the report nor did it consult broadly with civil society and other relevant stakeholders.

4. The Committee notes that some countries in which Ugandan migrant workers are employed are not parties to the Convention, which may constitute an obstacle to migrant workers' enjoyment of their rights under the Convention.

* Adopted by the Committee at its twenty-second session (13–24 April 2015).

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## B. Positive aspects

5. The Committee notes that the State party has concluded bilateral and multilateral agreements at the regional and international level and encourages the conclusion of such agreements insofar as they promote and protect the rights of migrant workers and members of their families. The Committee notes, in particular, the State party's ratification of or accession to the following:

(a) The Convention on the Rights of Persons with Disabilities and its Optional Protocol, in September 2008;

(b) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, in May 2002;

(c) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and pornography, in November 2001;

(d) The United Nations Convention against Transnational Organized Crime, in September 2003;

(e) The International Labour Organization (ILO) Equal Remuneration Convention, 1951 (No. 100), in June 2005;

(f) The ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111), in June 2005;

(g) The ILO Minimum Age Convention, 1973 (No. 138), in March 2003;

(h) The ILO Worst Forms of Child Labour Convention, 1999 (No. 182), in June 2001; and

(i) The African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention), in January 2010.

6. The Committee welcomes the adoption of the following legislative measures:

(a) The Employment (Employment of Children) Regulations, 2012;

(b) The Protocol on the Establishment of the East African Community (Common Market Protocol) on the free movement of persons and labour, 2010;

(c) The Prevention of Trafficking in Persons Act, 2009;

(d) Equal Opportunities Commission Act, 2007;

(e) The Employment Act No. 6, 2006;

(f) The Employment (Recruitment of Ugandan Migrant Workers Abroad) Regulations No. 62, 2005; and

(g) The Uganda Citizenship and Immigration Control Act (Cap 66), 1999, as amended by the Uganda Citizenship and Immigration Control (Amendment) Acts, 2006 and 2009.

7. The Committee also welcomes the following institutional and policy measures:

(a) The Decent Work Country Programme (2013–2017), with the ILO;

(b) The adoption of the National Action Plan on Elimination of the Worst Forms of Child Labour (2012/2013–2016/2017);

(c) National Development Plan (2010/2011–2014/2015);

(d) The establishment of the Coordination Office to Combat Trafficking in Persons, in 2012;

(e) The adoption of the National Employment Policy, 2011; and

(f) The establishment of the External Employment Unit within the Department of Employment Services, Ministry of Gender, Labour and Social Development, in 2005.

## C. Principal subjects of concern, suggestions and recommendations

### 1. General measures of implementation (arts. 73 and 84)

#### Legislation and application

8. The Committee welcomes the steps taken by the State party to adopt policies to protect the rights of migrant workers, including the draft policies on migration, the diaspora and immigrants. The Committee also notes the establishment of the Directorate of Citizenship and Immigration Control under the Uganda Citizenship and Immigration Control (Amendment) Act of 2006, which is an autonomous body responsible for implementing the State party's obligations under the Convention. However, the Committee is concerned that:

(a) The legal framework governing migration remains fragmented;

(b) A gender perspective is not taken into account in developing policies and programmes, despite the large percentage of women migrant workers both in the State party as well as in the diaspora; and

(c) There is insufficient coordination among the institutions and services that deal with the various measures to implement the rights under the Convention.

9. **The Committee recommends that the State party take the necessary steps to ensure that its national laws and policies are in line with the provisions of the Convention and that they are streamlined. The Committee also recommends that the State party adopt and implement the National Migration Policy, the National Diaspora Policy, and the National Immigrants Policy in line with the Convention and in a gender-sensitive manner. The Committee further recommends that the State party strengthen its efforts to improve coordination among ministries and agencies at all levels of Government for the effective implementation of the rights protected under the Convention, including by ensuring appropriate human and financial resources as well as capacity for key institutions engaged in handling migration issues, such as the Ministry of Foreign Affairs, the Ministry of Gender, Labour and Social Development, the Directorate of Citizenship and Immigration Control, the National Citizenship and Immigration Board and the Uganda Human Rights Commission.**

10. The Committee is concerned about the lack of information on the application of the Convention by domestic courts.

11. **The Committee invites the State party to provide information in its second periodic report on the application of the Convention by domestic courts.**

12. The Committee is concerned that the State party has made a reservation under article 18, paragraph 3 (d), of the Convention which may impede the full enjoyment of the rights of migrant workers under the Convention.

13. **The Committee recommends that the State party consider taking the necessary steps to withdraw the reservation made with respect to article 18 paragraph 3 (d), of the Convention.**

14. The Committee notes that the State party has not made the declarations provided for in articles 76 and 77 of the Convention recognizing the competence of the Committee to receive and consider communications from State parties and individuals concerning violations of rights established by the Convention.

15. **The Committee recommends that the State party consider making the declarations provided for in articles 76 and 77 of the Convention.**

16. The Committee notes that the State party has ratified or acceded to a number of International Labour Organization instruments, but that it has not yet ratified or acceded to the ILO Migration for Employment Convention (Revised), 1949 (No. 97) nor the Domestic Workers Convention, 2011 (No. 189).

17. **The Committee recommends that the State party consider ratifying or acceding to the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the Domestic Workers Convention, 2011 (No. 189) as soon as possible.**

18. The Committee notes that the State party has signed, but has not ratified, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, nor the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.

19. **In the light of the importance of the Protocols to the effective implementation of the provisions of the Convention, including those contained in article 68, the Committee recommends that the State party proceed to ratify the Protocols as soon as possible.**

20. The Committee regrets that the State party has not provided sufficient information on the specific measures it has taken to implement the Convention.

21. **The Committee urges the State party to include in its second periodic report updated information, supported by statistics, on the concrete measures taken to implement the rights of migrant workers, as set out in the Convention, both in law and practice.**

**Data collection**

22. The Committee is concerned that the State party has not been able to provide sufficient information on migration flows and on other migration-related issues that would enable the Committee to fully assess the extent and the manner in which the rights set out in the Convention are implemented in the State party.

23. **The Committee recommends that the State party establish a system for compiling migration-related statistics and information, both qualitative and quantitative, covering all aspects of the Convention, including migrant workers in an irregular situation, and that detailed data is collected on the status of migrant workers in the State party. The Committee encourages the State party to compile information and statistics that are disaggregated by sex, age, nationality, reason for entry into and departure from the country, and type of work performed, in order to effectively impact relevant policies and the application of the Convention. The Committee also recommends that the State party ensure the cooperation of its consular and diplomatic representation abroad in order to compile data on migration, including the situation of irregular migrant workers and victims of trafficking. In cases where it is not possible to obtain precise information, for example, in the case of migrant workers in an irregular situation, the Committee would appreciate receiving information based on studies or estimates.**

**Training on and dissemination of the Convention**

24. The Committee notes that the Uganda Human Rights Commission, working closely with other justice and law and order institutions, has been disseminating information on human rights, including the rights of migrant workers and their family members. The Committee also notes that the Directorate of Citizenship and Immigration Control and the Anti-Trafficking Task Force have been engaged in a series of trafficking prevention awareness-raising activities. However, the Committee is concerned about the lack of concrete information about materials and training programmes specifically on the Convention and the rights enshrined therein, and the dissemination of such information among all relevant stakeholders, including national, regional and local government bodies, domestic courts, civil society organizations, migrant workers and members of their families.

25. **The Committee recommends that the State party develop education and training programmes on the Convention and that such programmes be made available to all officials and other persons working in migration-related areas. The Committee also recommends that the State party ensure that migrant workers have access to information about their rights under the Convention, and that it work with civil society organizations and the media to disseminate information on the Convention and promote its implementation.**

## 2. General principles (arts. 7 and 83)

**Non-discrimination**

26. The Committee notes with concern that, according to the State party, the Constitution as well as Employment Act No. 6 of 2006 guarantee the right to non-discrimination to documented migrant workers only. The Committee is concerned about the lack of information on actual practice and examples that would make it possible to assess the implementation of the right to non-discrimination pursuant to the Convention with respect to both documented and undocumented migrant workers.

27. **The Committee recommends that the State party take all necessary measures, including legislative amendments, to ensure that all migrant workers and members of their families, both documented and undocumented, within its territory or subject to its jurisdiction, enjoy, without discrimination, the rights recognized by the Convention, in accordance with article 7 thereof. The Committee also recommends that the State party provide, in its second periodic report, information on actual practice in that regard, together with relevant examples.**

**Right to an effective remedy**

28. The Committee notes the information provided by the State party regarding mediation by the Uganda Human Rights Commission in relation to complaints made by migrant workers. However, the Committee is concerned that those cases are handled on an ad hoc basis and that, as stated in the State party's report, no cases of violations of the rights of migrant workers and members of their families have been taken to the tribunal for adjudication, which may reflect a lack of awareness on their part of their rights and of the legal remedies available to them.

29. **The Committee recommends that the State party ensure that, in law and in practice, migrant workers and members of their families, including those in an irregular situation, have equal opportunities as nationals of the State party to file complaints and obtain effective redress in the courts, including labour courts, in cases where their rights under the Convention are violated. The Committee also**

**recommends that the State party take additional measures to inform migrant workers and members of their families, including those in an irregular situation, about the judicial and other remedies available to them in case of a violation of their rights under the Convention.**

### 3. Human rights of all migrant workers and members of their families (arts. 8-35)

30. The Committee is concerned at reports that a number of child migrant workers are exploited in forced labour in agriculture, fishing, mining and brick-making in the State party.

31. **The Committee recommends that the State party increase labour inspections and prosecute, punish and sanction persons or groups exploiting child migrant workers or subjecting them to forced labour and abuse, especially in the informal economy. The Committee also recommends that the State party provide adequate assistance, protection and rehabilitation, including psychosocial rehabilitation, to children who have been victims of labour exploitation.**

32. The Committee notes the information provided by the State party that, under the Citizenship and Immigration Control Act, migrants aggrieved by a detention order are guaranteed the right to appeal. However, the Committee is concerned about the lack of information regarding measures to ensure that, in criminal and administrative proceedings, including detention and expulsion proceedings, migrant workers and members of their families, particularly those in an irregular situation, are guaranteed due process on an equal basis with nationals of the State party.

33. **The Committee recommends that the State party take the necessary steps to ensure that in administrative and judicial proceedings, including detention and expulsion proceedings, migrant workers and members of their families, particularly those in an irregular situation, are guaranteed due process on an equal basis with nationals of the State party before the courts and tribunals in administrative and judicial proceedings. In the light of the Committee's general comment No. 2 (2013) on the rights of migrant workers in an irregular situation and members of their families, the Committee recalls that administrative detention should only be used as a measure of last resort, and recommends that the State party consider alternatives to administrative detention. The Committee further recommends that the State party:**

**(a) Include in its second periodic report detailed disaggregated information on the number of migrant workers detained for immigration offences, and the place, average duration and conditions of their detention;**

**(b) Provide updated information, including disaggregated statistics, on the number of migrant worker expulsions as well as the procedures used;**

**(c) Ensure that the minimum guarantees enshrined in the Convention are assured with regard to administrative and judicial procedures against migrant workers and members of their families.**

34. The Committee notes the information provided by the State party that all arrested or detained migrants have the right to seek consular protection. However, the Committee is concerned at the lack of information on the specific consular assistance offered to migrant workers and members of their families to ensure the protection of their rights.

35. **The Committee recommends that the State party ensure that all migrant workers and members of their families have recourse to consular support for the protection of the rights set out in the Convention. The Committee also recommends that the State party take the necessary steps to ensure that its consular services can effectively meet the needs of Ugandan migrant workers and members of their families,**

**in terms of protecting their rights and providing them with assistance, including by allocating sufficient human and financial resources where necessary and developing training programmes and manuals on the Convention, as well as on the applicable laws and procedures of the State of employment for consular officials.**

36. The Committee welcomes the ratification, in June 2005, of ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). However, the Committee is concerned at the State party's claim that the constitutional guarantee of freedom of association, including the freedom to join trade unions, applies to documented migrants only.

37. **The Committee recommends that the State party take all necessary measures, including legislative amendments, to guarantee migrant workers in an irregular situation the right to take part in trade union activities and to freely join trade unions, in accordance with article 26 of the Convention.**

38. The Committee is concerned about the lack of information on specific programmes that guarantee access to emergency medical care and that open up education to migrant workers and members of their families who are in an irregular situation in the State party.

39. **The Committee recommends that, in accordance with articles 28 and 30 of the Convention, the State party adopt concrete and effective measures to ensure access to emergency medical care and access to the education system for migrant workers in an irregular situation, especially their children.**

40. The Committee notes the information provided by the State party that private recruitment agencies provide pre-departure orientation for Ugandan migrant workers. However, the Committee notes with regret the lack of specific information on government initiatives to provide information to migrant workers and members of their families on the rights protected by the Convention and on their rights and obligations in the State party.

41. **The Committee recommends that the State party take appropriate measures to disseminate information on the rights of migrant workers under the Convention, the conditions of their admission and employment, and their rights and obligations under the laws and practice of the States of employment. The Committee also recommends that the State party develop targeted pre-departure and awareness-raising programmes, including in consultation with relevant non-governmental organizations, migrant domestic workers and their families, and recognized and reliable recruitment agencies.**

### 4. Other rights of migrant workers and members of their families who are documented or in a regular situation (arts. 36-56)

42. The Committee notes the State party's claim that migrant workers can, in principle, form associations and trade unions, but notes with regret the lack of practical information regarding the implementation of that right. The Committee is concerned that section 76 of the Uganda Citizenship and Immigration Control Act prohibits migrant workers from becoming members of the Executive Committee of a trade union or a youth movement in the State party.

43. **The Committee recommends that the State party take the necessary measures to guarantee to migrant workers and members of their families, both in law and in practice, the right to form and be a member of the executive bodies of associations and unions for the promotion and protection of their economic, social, cultural and other interests, in accordance with article 40 of the Convention as well as with ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87).**

44. The Committee notes that the Constitution of Uganda extends voting and political rights to Ugandan migrant workers and members of their families outside the country, but notes with regret that presently there are no mechanisms in place for the Ugandan diaspora to vote in elections in the State party.

45. **The Committee recommends that the State party undertake measures to ensure the implementation of the right to vote for Ugandan migrant workers residing abroad and increase its efforts towards facilitating the exercise of the right to vote by Ugandan nationals residing and working abroad in the presidential elections to be held in 2016.**

## 5. Promotion of sound, equitable, humane and lawful conditions in connection with international migration of workers and members of their families (arts. 64-71)

46. The Committee notes that the State party is pursuing the possibility of concluding agreements with countries of employment of Ugandan migrant workers, including Kuwait, Qatar and the United Arab Emirates, with a view to protecting their rights. However, the Committee is concerned at the delay in concluding such agreements in the light of information concerning exploitation and violation of the rights of Ugandan migrant workers in States of employment, in particular in the Middle East and South Sudan.

47. **The Committee recommends that the State party enter into agreements that are in line with the Convention with countries of employment of Ugandan migrant workers in order to better protect their rights and facilitate the provision of appropriate consular and other services.**

48. The Committee notes that the Directorate of Citizenship and Immigration Control has disseminated information on the registered recruitment companies that can assist in employment emigration procedures. However, the Committee is concerned at reports that some private recruitment agencies facilitate trafficking, sexual exploitation and/or foreign employment in abusive working conditions, inter alia, in domestic work in the Middle East, while charging excessive placement fees.

49. **In the light of its general comment No. 1 on domestic migrant workers, the Committee recommends that the State party strengthen the effective regulation and monitoring of recruitment agencies, labour brokers and other intermediaries to ensure that the rights of domestic migrant workers are respected. The Committee also recommends that State parties establish sanctions, including loss of accreditation, for such agencies and intermediaries that engage in unethical and illegal practices that violate the rights of migrant domestic workers. The Committee further recommends that the State party adopt a code of conduct on the recruitment of migrant domestic workers, including specific rules governing fees and salary deductions, provide for appropriate penalties and sanctions to enforce the rules and consider banning the charging of recruitment fees for domestic migrant workers.**

50. The Committee notes that the State party has, in a number of cases, worked closely with the International Organization for Migration (IOM) regarding the return, resettlement and reintegration of Ugandan migrant workers. However, the Committee is concerned about the lack of information about the measures taken by the Government to promote the reintegration of Ugandan migrant workers and members of their families returning to Uganda.

51. **The Committee recommends that the State party take measures to ensure the appropriate social, economic or other conditions necessary to facilitate the return and durable reintegration of Ugandan migrant workers and members of their families in the State party, as provided for in article 67 of the Convention.**

52. The Committee notes the efforts of the State party to combat human trafficking in the State party. However, the Committee is concerned about:

(a) The absence of regulations to facilitate the implementation of the Prevention of Trafficking in Persons Act;

(b) The insufficient resources dedicated to detecting and eliminating trafficking in persons;

(c) The lack of data on the scale of the phenomenon in the State party, and in particular on the number of cases involving women and children.

53. **The Committee recommends that the State party:**

**(a) Step up its efforts to enforce the Prevention of Trafficking in Persons Act;**

**(b) Allocate sufficient resources for the implementation of strategies to detect and eliminate trafficking in persons;**

**(c) Evaluate the phenomenon of trafficking in persons and compile systematic disaggregated data to better combat trafficking in persons, especially women and children, and bring perpetrators to justice;**

**(d) Provide protection and assistance to all victims of human trafficking, in particular by providing shelters, medical care, psychosocial and other support to assist in their reintegration into society; and**

**(e) Strengthen training for law enforcement officials, judges, prosecutors, labour inspectors, teachers, health care workers and the staff of the State party's embassies and consulates, and disseminate more widely information on trafficking in persons and on assistance to victims.**

54. The Committee is concerned about the lack of clarity regarding the concrete measures taken by the State party to ensure that the situation of irregular migrant workers and members of their families within its territory does not persist.

55. **The Committee recommends that the State party take appropriate measures to establish procedures for regularizing the situation of migrant workers in an irregular situation, so as to ensure that such a situation does not persist, and ensure that migrant workers in an irregular situation are informed about such procedures.**

## 6. Follow-up and dissemination

### Follow-up

56. **The Committee requests the State party to include in its second periodic report detailed information on measures taken to follow up on the recommendations contained in the present concluding observations. The Committee recommends that the State party take all appropriate measures to ensure that those recommendations are implemented, including by transmitting them for consideration and action to members of the Government and the Parliament as well as local authorities.**

57. **The Committee requests the State party to involve civil society organizations in the implementation of the recommendations contained in the present concluding observations.**

**Follow-up report**

**58. The Committee requests the State party to provide, within two years, that is, by 24 April 2017, written information on the follow-up to the recommendations contained in paragraphs 28, 42, 44, and 45 above.**

**Dissemination**

**59. The Committee likewise requests the State party to disseminate the Convention and the present concluding observations widely, including to public agencies, the judiciary, non-governmental organizations and other members of civil society and the public in general, so as to increase awareness thereof.**

**7. Technical assistance**

**60. The Committee recommends that the State party avail itself of international assistance, including technical assistance, to develop a comprehensive programme for the implementation of the above recommendations and the Convention as a whole. The Committee also calls upon the State party to continue its cooperation with the specialized agencies and programmes of the United Nations system.**

**8. Next periodic report**

**61. The Committee requests the State party to submit its second periodic report by 24 April 2020 and to include therein information on the implementation of the present concluding observations. Alternatively, the State party may follow the simplified reporting procedure, whereby the Committee draws up and adopts a list of issues that is transmitted to the State party prior to the submission of its next report. The replies of the State party to that list of issues will constitute its report under article 73 of the Convention. In that way, the State party does not submit its report in the traditional manner. This new optional procedure was adopted by the Committee at its fourteenth session in April 2011 (see A/66/48, para. 26).**

**62. The Committee draws the State party's attention to its harmonized treaty-specific guidelines (CMW/C/2008/1) and reminds it that periodic reports should be in compliance with the guidelines and not exceed 21,200 words (see General Assembly resolution 68/268). In the event that a report exceeding the established word limit is submitted, the State party will be asked to shorten the report in accordance with the above-mentioned guidelines. If the State party is not in a position to review and resubmit the report, translation of the report for purposes of examination by the treaty body cannot be guaranteed.**

**63. The Committee requests the State party to ensure the wide participation of all ministries and public bodies in the preparation of its next periodic report (or replies to the list of issues, in the case of the simplified reporting procedure) and, at the same time, to consult broadly with all relevant stakeholders, including civil society, migrant workers and human rights organizations.**

**64. The Committee also invites the State party to submit an updated common core document, not exceeding 42,400 words, in accordance with the requirements for the common core document in the harmonized guidelines on reporting under the international human rights treaties, including guidelines on a common core document and treaty-specific documents, approved at the fifth inter-committee meeting of the human rights treaty bodies in June 2006 (HRI/MC/2006/3 and Corr.1).**